

# ZIPPY GRID

storefront grid system

366 South 500 East Suite 201 • Salt Lake City, Utah 84102  
phone 801.532.3106 fax 801.532.0930

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March 22, 2001

Dear Customer,

Thank you for your recent order with our company.

To provide you with the best possible service, it is important to complete and obtain the appropriate signature on the enclosed credit application and return it to me. In an effort to expedite your request, please include contact names and account numbers as well as complete postal information for all references noted on the application.

Also, please find a copy of the policy which explains our standard terms of sale which will be effective once we have received the original signed application and you are approved for credit. If you have any questions in this regard, please contact me.

Please note that even though you may have faxed us a copy of the credit application, please return the original signed application as promptly as possible.

Again, thank you for doing business with ZIPPY GRID.

Sincerely,

ZIPPY GRID

Kenneth C. Millo  
Credit Manager

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APPLICATION FOR CREDIT  
AND ACKNOWLEDGMENT OF TERMS & CONDITIONS OF SALE

DATE \_\_\_\_\_ TAXABLE \_\_\_\_\_ NON-TAXABLE \_\_\_\_\_ PERMIT NO. \_\_\_\_\_

NAME OF COMPANY \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_ P.O. BOX \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_ PHONE \_\_\_\_\_

CORPORATION \_\_\_\_\_ PARTNERSHIP \_\_\_\_\_ PROPRIETORSHIP \_\_\_\_\_

STATE INCORPORATED \_\_\_\_\_ MONTH \_\_\_\_\_ DAY \_\_\_\_\_ YEAR \_\_\_\_\_

IF BRANCH OR DIVISION, LOCATION OF HOME OFFICE \_\_\_\_\_

IF WHOLLY OR PARTIALLY OWNED SUBSIDIARY, DOES PARENT COMPANY ASSUME ALL LIABILITIES? YES \_\_\_ NO \_\_\_ IF

NOT INCORPORATED, DATE BUSINESS STARTED: MONTH \_\_\_\_\_ DAY \_\_\_\_\_ YEAR \_\_\_\_\_

**PARTNERSHIP: NAME OF PARTNERS**

HOME ADDRESS

HOME PHONE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PROPRIETORSHIP: OWNERS NAME**

HOME ADDRESS

HOME PHONE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LOCAL BUSINESS OR TRADE REFERENCES:**

ADDRESS

TELEPHONE

1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_  
4. \_\_\_\_\_  
5. \_\_\_\_\_

\_\_\_\_\_  
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\_\_\_\_\_

**BANK REFERENCES: Please include account numbers.**

1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_  
4. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ARE PURCHASE ORDER NUMBERS REQUIRED? YES \_\_\_\_\_ NO \_\_\_\_\_

WILL COMPANY SUBMIT A FINANCIAL STATEMENT UPON REQUEST? YES \_\_\_\_\_ NO \_\_\_\_\_

NAME AND ADDRESS OF PREVIOUS BUSINESS \_\_\_\_\_

NATURE OF PRESENT BUSINESS \_\_\_\_\_

APPROXIMATE AMOUNT OF CREDIT DESIRED PER MONTH \_\_\_\_\_

**THE TERMS AND CONDITIONS ON THE BACK SIDE OF THIS FORM ARE A MATERIAL PART OF THIS CONTRACT.**

I (we) understand that the information furnished to you on this page, as well as the reverse side hereof, is for the purpose of obtaining credit from your firm. That I am (we are) authorized, in my (our) capacity, to bind my our firm accordingly. That all accounts or monies due you shall be due and payable at your place of business. I (we) acknowledge and agree that our purchases from you will be subject of the terms and conditions set forth on the front and back sides of your acknowledgment acknowledging acceptance of our order. For your information, our current terms and conditions are set forth on the reverse side.

**THIS APPLICATION MUST BE SIGNED BY AN OWNER**

**OR OFFICER OF THE CORPORATION**

TITLE

DATE

X \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

X \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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CREDIT REFERENCE

March 22, 2001

Your name has been furnished as a Local Business or Trade Reference, by the company below:

**Name of Company:**  
**Street Address:**  
**P.O. Box:**  
**City, State, ZIP**  
**Phone:**  
**Authorized Representative:**

Any information you provide will be kept for the confidential use of **ZIPPY GRID** in establishing a line of credit with the above named company.

NUMBER OF YEARS IN BUSINESS \_\_\_\_\_

DATE OF LAST SALE \_\_\_\_\_

RECENT HIGH CREDIT \$ \_\_\_\_\_

AMOUNT OWING \$ \_\_\_\_\_

PAYMENT TERMS \_\_\_\_\_

PAYMENT HISTORY (please circle one) DISCOUNT    PROMPT    SLOW

AVERAGE DAYS TO PAYMENT \_\_\_\_\_

COMMENTS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PLEASE RETURN THIS FORM AT YOUR EARLIEST CONVENIENCE TO:

**ZIPPY GRID**  
Attn: KEN MILLO  
366 South 500 East Suite 201  
Salt Lake City, Utah 84102  
phone 801.532.3106  
fax 801.532.0930

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## AUTHORIZATION TO RELEASE INFORMATION

I authorize you to release to ZIPPY GRID any and all information necessary to assist in establishing a line of credit. This information will be kept for their confidential use. I further understand that a duplicate copy of this form may be used when requesting information.

FIRM NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

ACCOUNT NUMBER: \_\_\_\_\_

AUTHORIZED BY: \_\_\_\_\_

TITLE

DATE

## SALES INVOICE - TERMS AND CONDITIONS

1. **TERMS OF PAYMENTS.** Payment shall be made in cash, due thirty (30) days after the date of invoice. Invoices shall be dated the date of the shipment. The date of payment of an invoice is the date on which the check therefore is actually received by the Seller.

2. **APPLICABLE PRICES.** Applicable prices are the Sellers prices in effect at the time of shipment, prior quotations or order acknowledgements notwithstanding.

3. **SELLER'S REMEDIES.**  
a. In the event that the purchase price of the property described herein is not paid when due, **BUYER AGREES TO PAY, IN ADDITION TO ALL AMOUNTS DUE, SERVICE CHARGES ON SAID UNPAID BALANCE, COMPUTED FROM THE DATE SUCH PAYMENTS WERE DUE AT 1-1/2 PERCENT PER MONTH ON ALL PORTIONS PAST DUE.**

b. Upon breach or default Seller shall have every right and remedy set forth in Applicable Laws of the State of Utah, in addition to all rights and remedies granted herein.

c. In the event of the default or breach by Buyer, Buyer agrees to pay all expenses incurred by Seller, including attorney's fees and costs of repossession storage, sale or preparation for sale.

d. If Buyer shall terminate this order or contract before completion thereof, with Seller's written consent, Buyer shall pay Seller the contract price for all products which shall have been delivered or completed prior to Buyer's breach, all actual costs incurred by Seller in connection with the uncompleted portion of the order, such costs shall include overhead and costs of materials for processing the order or contract and all cancellation charges incurred by Seller on account of its commitment or contracts made in connection with the completion of Seller's contract with Buyer.

4. **BUYER'S REMEDIES.** Notwithstanding the provisions of Applicable Utah Law and other applicable statutes, the remedies available to Buyer as set forth in this contract are exclusive remedies and all other remedies statutory or otherwise are hereby expressly waived by Buyer. Because of the nature of this Agreement and the circumstances peculiar to it, Buyer acknowledges that the exclusion of remedies is neither unreasonable or unconscionable. If Seller fails to make delivery or repudiates or if Buyer rightfully rejects or justifiably revokes the acceptance thereof, the Buyer may cover by making, in good faith and without unreasonable delay, a reasonable purchase of or contract to purchase goods in substitution from those due from Seller. Buyer may recover from Seller as damages the difference between the cost of cover and the contract price, together with any incidental damages resulting from Seller's breach, including expenses reasonably incurred in inspection, receipt, transportation, and care and custody of goods rightfully rejected.

**SELLER SHALL NOT BE LIABLE FOR ANY FAILURE OR DELAY IN PERFORMANCE OR DELIVERY WHICH IS CAUSED IN WHOLE OR IN PART BY FIRES, FLOODS, ACCIDENTS, RIOTS, OPERATION OF LAW, GOVERNMENTAL REGULATIONS OR REQUIREMENTS, STRIKES OR OTHER LABOR DIFFICULTIES, SHORTAGES OF FUEL, POWER, MATERIALS OR SUPPLIES, DELAYS IN OR LACK OF TRANSPORTATION FOR ANY SIMILAR OR DISSIMILAR CAUSES BEYOND SELLER'S CONTROL. SELLER SHALL NOT BE LIABLE IN ANY EVENT FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES IN RESPECT OF FAILURE OR DELAY IN PERFORMANCE OR DELIVERY DUE TO ANY CAUSE WHATSOEVER. IF SELLER IS UNABLE, DUE TO ANY CAUSE BEYOND ITS CONTROL, TO SUPPLY THE TOTAL DEMAND FOR PRODUCTS ORDERED BY BUYER, SELLER MAY ALLOCATE ITS AVAILABLE SUPPLY IN ANY MANNER SELLER DEEMS REASONABLE AMONG ITS CUSTOMERS, INCLUDING SELLER'S BRANCHES AND AFFILIATES.**

5. **TRANSPORTATION.** Transportation terms are subject to change to Seller's published terms as in effect on the date of shipment. Until so changed, all shipments of extrusion to any destination in the continental United States, except Alaska, shall be F.O.B. destination or other place where Buyer or his agent takes custody of products: (b) in Hawaii and Alaska shall be F.A.S vessel or aircraft at the port of exit of the continental United States (excluding Alaska). No allowance shall be made for pickup of products at Seller's plant or any intermediate location, including any teamtruck servicing Buyer's plant. Seller shall determine routing, including the method and agency of transportation, but if Seller permits Buyer to determine routing, Buyer shall be invoiced for any transportation costs in excess of the transportation cost determined at the lowest published car load or truckload rate, whichever is lower, regardless of the quantity shipped. Excess transportation charges assessed by carriers covering shipments requiring special equipment in handling or transporting will be charged to Buyer.

6. **TOLERANCES.** Unless otherwise expressly provided, products furnished by Seller are to be within Seller's size, gauge, color, temper, and finish limits of manufacturer and subject to Seller's standard tolerances for variations, including those in quantity.

Quantity per item:	Quantity tolerance + or -
Less than 500 lbs.	35%
500 to 1999 lbs.	15%
2000 to 9999 lbs.	10%
10,000 or more	5%

7. **TAXES.** Buyer shall pay to Seller an amount equal to any tax (except income tax) or duty now or hereafter imposed by any domestic or foreign government and be paid by Seller whether such tax or duty shall be imposed on or measured by this Agreement, the goods covered hereby or any material contained in such goods or the manufacture, use, or sale of such goods.

8. **INSPECTION CHARGES.** Where Buyer requires a test or inspection not regularly provided by Seller, Seller may charge Buyer for the actual cost of such tests or inspection.

9. **WARRANTIES.** Seller warrants that all goods sold pursuant hereto shall conform to the description on the face of Seller's Acknowledgment, subject to the published Aluminum Association standard commercial tolerances in effect at the time of production, unless otherwise agreed to in writing by Seller preceding production, that such goods shall be free from defects in material and workmanship, and that Seller shall convey good title thereto. **SELLER MAKES NO WARRANTY THAT THE GOODS SHALL BE MERCHANTABILITY OR FIT FOR ANY PARTICULAR PURPOSE, NOR DOES SELLER MAKE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, SELLER'S LIABILITY SHALL BE LIMITED TO REPAIR OR REPLACEMENT, INCLUDING LABOR, AT ITS FACTORY, FOR ANY PART OR PARTS WHICH ARE DEFECTIVE IN MATERIAL OR WORKMANSHIP AS DISCLOSED TO SELLER UPON ITS EXAMINATION THEREOF.** At the Seller's option, it may refund to Buyer amounts paid for any goods defective in material or workmanship, upon Buyer's restoration of the goods to Seller. All shipping costs incurred with the transportation of goods defective in material or workmanship for repair or replacement shall be paid by Seller. Buyer shall promptly notify Seller upon its discovery of a material defect in the goods sold hereunder. **SELLER'S EXPRESS WARRANTIES AGAINST DEFECTS AND TITLE DO NOT EXTEND TO GOODS PROVIDED BY THE BUYER.**

10. **SECURITY INTEREST.** To secure Buyer's performance, Buyer hereby grants Seller a security interest in all goods purchased, together with and including, but not limited to, accessories, additions, and replacements now or hereafter acquired. Buyer hereby agrees to cooperate with Seller in executing, filing and taking such other steps as may be necessary to perfect and continue the secured party's interest in the goods. Buyer agrees not to permit said goods to become subject to attachment, execution, or other process, and not to create or permit to be created any lien or security interest against the goods without Seller's written consent as long as Buyer owes Seller any part of the purchase price, service charges, and other fees and costs.

### 11. GENERAL PROVISIONS.

(a) **ATTORNEY'S FEES.** If suit or action is instituted in connection with any controversy arising out of this Agreement or enforcement of any rights hereunder, the prevailing party shall be entitled to recover in addition to such costs such sums as the court may adjudge to be reasonable attorneys fees, including fees upon appeal.

(b) **BINDING NATURE.** The provisions of this Agreement shall be binding upon and inure to the benefit of all the parties hereto and their estates, heirs, legatees, legal representatives, successors and assigns.

(c) **SEVERABILITY.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(d) **INTEGRATION.** This Agreement contains the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supercedes all prior and contemporaneous agreements among them with respect to the subject matter hereof. Except as fully set forth herein, there are no representations, agreements or understandings oral or written between the parties hereto relating to the subject matter of this Agreement. Any amendments hereto must be consented to in writing by the parties.

(e) **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. Jurisdiction and venue shall lie in the District, or Circuit Court for the State of Utah for the County of Salt Lake.

(f) **WAIVER.** Buyer agrees that Seller's acceptance of partial or late payments shall not constitute or be construed as a waiver of any terms or conditions of this contract or of Seller's rights upon any subsequent default of Buyer.

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## TERMS OF SALE

It is the policy of ZIPPY GRID to extend 30 days terms to customers who have acceptable credit, have been approved by the credit department and have submitted a signed credit application. Invoices paid in excess of 20 days are subject to a late charge.

late charges are calculated from the 31st day of the invoice date, at an annual percentage rate of 18%. Customers shall be responsible for resolving all late charges prior to placing additional orders with our company.